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Chairman: Mr. Mochochoko ..... (Lesotho)
later: Mr. Franco (Vice-Chairman) ..... (Colombia)

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Tribute to the memory of H.E. Mr. Julius Nyerere, First President of the United Republic of Tanzania

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The meeting was called to order at 10 a.m.

Agenda item 159: Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization *(continued)* (A/54/33)

1. **Mr. Phan Truong Giang** (Viet Nam), referring to the implementation of the provisions of the Charter concerning assistance to third States affected by the imposition of sanctions, said that sanctions should be a last resort after all peaceful means of settling disputes or conflicts had been exhausted, and should be authorized by the Security Council. Furthermore, sanctions should have a specified time-frame, be based on tenable legal grounds, and should be lifted as soon as their objectives were achieved. In addition, a mechanism and a relief fund for third States affected by the application of sanctions should be established. Under Article 50 of the Charter, third States had a right to consult the Security Council with regard to a solution of those problems. His delegation fully supported the position adopted in that regard by the Non-Aligned Movement Summit, held in Durban, South Africa, in 1998. In its view, the proposal made by the Russian Federation on the basic conditions and criteria for the introduction of sanctions (A/AC.182/L.100) was of great interest. The working paper submitted by the Russian Federation on the legal basis for United Nations peacekeeping operations (A/AC.182/L.89/Add.2 and Corr.1) and the proposal of the Russian Federation and Belarus concerning the need to seek an advisory opinion from the International Court of Justice on the legal consequences of resort to the use of force by States without prior authorization from the Security Council (A/AC.182/L.104) had much merit.

2. His delegation believed that the Special Committee should contribute actively to reforming the Organization, and especially to strengthening the role of the General Assembly as the most representative body of the United Nations and to expanding representation in the Security Council with a view to making it a more accountable and effective body. In that regard, his delegation noted with satisfaction Cuba's working paper on strengthening the role of the United Nations and enhancing its effectiveness (A/AC.182/L.93 and Add.1). The question of the definition of a dispute prevention and early settlement service, proposed by Sierra Leone (A/AC.182/L.96), should be studied further, with particular reference to its scope, mandate and financial implications. On the other hand, his delegation strongly supported the updating and continued publication of the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council*.

3. With regard to the strengthening of the International Court of Justice, his delegation was studying the proposals of Guatemala (A/AC.182/L.103 and Corr.1) and Mexico (A/AC.182/L.105). Lastly, he requested that the item entitled "Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization" should be placed on the provisional agenda of the fifty-fifth session of the General Assembly.

4. **Mr. Mikulka** (Secretary of the Committee), replying to the request by several delegations at earlier meetings, said that at the 1998 session, the Special Committee had used 65 per cent of its allocated conference resources and that 9 hours and 40 minutes had been lost owing to late starts and early adjournments of meetings. At its 1999 session, the Special Committee had used 62 per cent of its resources. Of the 20 planned meetings, five had been cancelled and 13 hours and 50 minutes had been lost for the aforementioned reasons.

5. In accordance with paragraph 24 of General Assembly resolution 53/208 A of 18 December 1998, the Chairperson of the Committee on Conferences had sent a letter, dated 11 August 1999, to the Chairperson of the Special Committee informing her about those figures and requesting her continued cooperation in improving the utilization of conference resources. The Chairperson of the Committee on Conferences had accordingly held consultations with the Chairperson and the Secretary of the Special Committee on 4 October 1999.

6. With regard to the possibility of posting a copy of the *Repertory of Practice of United Nations Organs* on the Internet, the Interdepartmental Committee on Charter Repertory could study that matter the following year, including such financial implications as the possible loss of sales revenue from publications offered on the Internet and the cost of converting earlier volumes into an electronic format. The Secretariat was currently reviewing those questions.

7. With regard to the matter of languages, the *Repertory of Practice of United Nations Organs* was published only in English, French and Spanish. As stated in paragraph 16 of the report of the Secretary-General (A/54/363), measures were also being taken to translate volume VI of Supplement No. 6 into French and Spanish. The *Repertoire of the Practice of the Security Council* was issued only in English and French. In the late 1970s, an attempt had been made to issue it in Russian and Spanish as well, but that had been

discontinued for financial reasons, although Supplement No. 5 had been translated into Russian.

8. **Mr. Rubadiri** (Malawi) said that his delegation welcomed the report of the Special Committee (A/54/33) and the report of the Secretary-General (A/54/383); it nonetheless hoped that the Secretary-General would submit his own views on the deliberations and main findings of the ad hoc expert group at a later stage.

9. With regard to Article 50 of the Charter, Malawi was one of the countries that had in the late 1960s brought to the attention of the international community the adverse impact of sanctions on third States. His delegation shared the view expressed in the report of the Secretary-General (A/54/312) with respect to the deliberations and main findings of the ad hoc expert group, that the cost of implementing sanctions should be viewed as the opportunity cost of a possible alternative to an international military action or peacekeeping operation, that such costs should be internationally shared, and that the cost of carrying out preventive or enforcement measures should be borne by the international community on a more equitable basis, taking into consideration in particular the consequences of such measures on affected developing countries. The advisory opinion of the International Court of Justice in the *Certain Expenses of the United Nations* case provided a sound legal basis for that approach. On the other hand, a trust fund should be set up with a view to implementing Article 50 of the Charter, without overlooking the fact that the basic issue raised therein was the humanitarian cost of the imposition of sanctions; the proposal of the Russian Federation in that regard (A/AC.182/L.100) was worthy of serious consideration. His delegation doubted, however, whether the Special Committee should consider the Russian Government's proposal concerning the legal basis for United Nations peacekeeping operations and would support any recommendation to refer that proposal to the appropriate body, which in its view was the Special Committee on Peacekeeping Operations.

10. Lastly, his delegation believed that the working methods of the Special Committee on the Charter could be further improved, and supported all the recommendations that Committee had put before the Sixth Committee.

11. **Mr. Dlamini** (Swaziland) said that, since his country had been seriously prejudiced by the sanctions imposed on South Africa in the past, it welcomed the recommendations of the ad hoc expert group contained in the Secretary-General's report (A/53/312) concerning measures for further improvement of procedures and working methods of the Security Council and its sanctions committees in the consideration of requests for assistance under Article 50 of the Charter and arrangements in the Secretariat for providing better information and early assessments regarding the actual and potential effects of sanctions on third States. It also welcomed the Russian Federation's document on the basic conditions and criteria for the introduction of sanctions.

12. With regard to practical measures to strengthen the International Court of Justice, he noted sadly that, although the Court's workload had increased, owing mainly to the many cases brought by developing countries, it had not been provided with the required financial resources. He therefore urged the Advisory Committee on Administrative and Budgetary Questions to pay due attention to that urgent matter. With regard to the future programme of the Special Committee, he stressed that it should restrict itself exclusively to issues of a legal nature.

13. **Mr. Hamid** (Pakistan) said he considered that the work of examining the application of the provisions of the Charter related to third States affected by sanctions was timely and that it was necessary to go beyond the provisions of Article 50, which merely recognized the right of third States to consult the Security Council with regard to economic problems resulting from the Council's measures. The United Nations should adopt innovative, practical measures to assess the consequences of sanctions on third States and compensate them for the damage and losses that they may have suffered. The ad hoc expert group had made appropriate recommendations that were worth examining, particularly the one concerning prior assessment of the potential effects on third States, close monitoring of the situation, and the sending of special representatives and fact-finding or evaluation missions. The unforseen effects of sanctions and their negative implications for expatriate workers in third States also required in-depth study; that phenomenon was particularly harmful for low-income developing countries such as Pakistan, whose economy benefited from remittances from overseas workers. In such situations, the principal objective should be to offer rapid and effective relief. It was necessary to develop a mechanism and establish a fund to provide emergency financial assistance to affected third States.

14. Lifting sanctions had always been a complex procedure. Delays had caused unjustified and unnecessary harm and suffering to the people of the targeted country. Consequently, if imposed, sanctions should be for a limited period and the conditions for lifting them should be clearly stipulated. The United Nations should not become a punitive organ. The Security Council should not resort to sanctions unless it had first objectively verified the existence of a real

threat to international peace and security and unless it had exhausted all other means of dispute settlement.

15. Pakistan's commitment to and participation in peacekeeping operations was based on its fundamental belief in the principles of international diplomacy. The United Nations should act before the outbreak of a conflict; however, preventive diplomacy and deployment should not be conditioned upon the consent of the parties, nor subject to the availability of resources. Peacekeeping operations should have a clear political direction, a precise mandate and an effective command and control structure, and clearly defined rules of engagement. The goal of peacekeeping should not be merely to separate the warring factions and then depart, leaving a vacuum, but should also be to examine the causes of the conflict in order to resolve them. Once a peacekeeping mission had been established, there should be no restrictions, limits or "sunset" clauses imposed on it. On that basis, the Special Committee could examine the Russian Federation's proposal, although it should not duplicate the efforts of the Special Committee on Peacekeeping Operations.

16. Pakistan did not wish the work of the International Court of Justice to be hampered or its effectiveness impaired because of resource constraints. Consequently, it supported Mexico's proposal that the relevant organs of the United Nations should be urged to give careful consideration to the request for additional budgetary resources.

17. The Special Committee should establish clear priorities for considering proposals and focus on key issues; it should not lose time examining topics without obtaining concrete results, or results that duplicated the work of other organs. It was difficult to establish a time-frame for the Committee's sessions; their duration should be determined by the nature of the topics.

18. **Ms. Nebiha** (Tunisia) said that it was necessary to remember the basic principles of the Charter of the United Nations: the maintenance of international peace and security and the preventive method of dispute settlement. Before consideration of enforcement measures, the peaceful means available under Article 33 of the Charter should be used. In that respect, the proposal to create a mechanism for prevention and rapid dispute settlement merited careful consideration.

19 On the issue of assistance to third States affected by the application of sanctions, discussed in the Secretary-General's report (A/54/383), there was clearly agreement in principle on the need to apply the provisions of Article 50 of the Charter, and on the pertinence of certain recommendations made by the expert group to provide urgent and effective help to such States. The expert group had proposed that, before any decision to impose sanctions, the potential effects of that decision should be examined, both on the country which was the object of the sanctions and on third States. That measure would in no way contradict the spirit of the Charter. It was also necessary to consider humanitarian aspects. Sanctions should have a specific objective, be limited in time, and be evaluated periodically in order to lift them once their objectives had been achieved, thereby respecting the social and economic rights of the most vulnerable groups of society.

20. As to the discussions in the Special Committee, that body could contribute more effectively to strengthening the role of the United Nations by adopting a less global approach and establishing concrete priorities.

21. **Mr. Bakoniarivo** (Madagascar) said the fact that States were increasingly having recourse to the International Court of Justice indicated the level of confidence the Court inspired. However, its lack of resources had caused delays which might foster dissatisfaction and doubt with respect to the efficacy of recourse to the Court as a mechanism for the peaceful settlement of disputes. In that regard, his delegation welcomed the initiative taken by the Mexican delegation and fully supported the draft resolution contained in paragraph 122 of the report (A/54/33). Furthermore, it drew the attention of the competent bodies to the need to provide the Court with the means it needed to accomplish its task. It was worth noting that there were currently many countries in Africa which had recourse to the Court and had accepted the provision on compulsory jurisdiction under Article 36, paragraph 2, of the Statute of the Court. Madagascar had accepted the Court's jurisdiction and invited all other States which had not yet done so to do likewise.

22. The application of sanctions should be effected strictly in accordance with the provisions of the Charter. Moreover, their potential effects should be determined before sanctions were approved. Under no circumstances should sanctions violate fundamental human rights and the right to development, nor should they be humiliating, as humiliation generated a vindictive spirit among civilian populations. In that regard, Madagascar shared the views expressed at the Summit of Heads of State or Government of the Non-Aligned Movement held in Durban, South Africa, in September 1998, and supported the creation of a special fund to alleviate the effects of sanctions on the population. It also supported the proposal submitted by Sierra Leone, which merited thorough consideration, and emphasized the role which regional organizations should play in the prevention and early settlement of disputes. With regard to the working methods of the Special Committee, he commended the

efficiency of its work, but urged it to avoid long discussions of proposals which did not enjoy sufficient support and the duplication of effort with other bodies. If that approach was taken, the role of the Organization would be strengthened in the next millennium.

23. **Ms. Kalema** (Uganda) said that her country attached special importance to the question of assistance to third States affected by the application of sanctions under Chapter VII of the Charter, and recognized the fundamental role of the Security Council with regard to the maintenance of international peace and security and the application of sanctions in accordance with the Charter. Uganda also believed that the application of sanctions was an exceptional measure which should be carried out for a limited period of time only, and that sanctions should be lifted once their main objective had been achieved. Ways and means should be sought to avoid or minimize the adverse impact of sanctions on third States, and to apply Article 50 of the Charter in order to alleviate the hardships those States faced.

24. The Sixth Committee should carefully examine the reports of the Special Committee (A/54/33) and the Secretary-General (A/54/383), in which reference was made, among other things, to the development of a mechanism which would include consultations between the Security Council and affected third States, the preliminary assessment of sanctions before their imposition, and the evaluation of their effect in order to minimize collateral damage. Another important aspect was the role of international financial institutions, international organizations and donor countries in providing assistance to adversely affected States. In that regard, the pivotal role of the United Nations in coordinating the various activities should be stressed. However, something more was needed to redress the situation. The establishment of a mechanism with a financial base was fundamental to securing a lasting solution, otherwise, third States might become less reliable allies in enforcing sanctions against target countries.

25. Her delegation shared the Special Committee's view on the need to give close consideration to the working paper submitted by the Russian Federation, entitled "Basic conditions and criteria for the introduction of sanctions and other coercive measures and their implementation". Regarding the proposal, made by Sierra Leone and complemented by the United Kingdom, on the peaceful settlement of disputes, Uganda felt those initiatives contained interesting elements and merited consideration, bearing in mind the existing mechanism for dispute prevention and settlement at the disposal of the Secretary-General. Turning to the proposal submitted by Mexico on strengthening the International Court of Justice by considering practical ways of streamlining its procedures to cope with its increasing workload, she said Uganda was concerned about the need to increase the financial resources of the Court in order for it to act effectively as the principal judicial organ of the United Nations. The Advisory Committee on Administrative and Budgetary Questions and the Fifth Committee should seriously consider that issue.

26. There was a need to address the future role of the Trusteeship Council: its reconstitution as a guardian and trustee of the common heritage of mankind would result in a duplication of activities already being carried out by other bodies. Since the Trusteeship Council's current status had no financial implications, it might be best to study all aspects of its role within the overall context of United Nations reform.

27. The *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council* were very important documents since they had created useful precedents over the years and had been essential tools for Member States, the Secretariat and researchers. The efforts of the Secretariat to publish the Supplements had been hampered by a lack of resources. Although measures had been taken to speed up the work, much remained to be done. Uganda therefore supported the proposals contained in the report (A/54/363) for addressing the problems and eliminating the backlog, particularly the allocation of adequate resources as outlined in the budget for the biennium 2000-2001.

28. Her delegation supported the recommendations concerning the review of the Special Committee's working methods with a view to enhancing its efficiency.

29. **Mr. Al-Adhami** (Iraq), speaking on the issue of international peace and security, said that his delegation welcomed the Russian Federation's proposal, which had been widely supported by members of the Committee and had excellent objectives, particularly those calling for a legal basis for the sanctions regime in accordance with the principles of the United Nations, without political motives and bearing in mind the humanitarian consequences of sanctions.

30. Describing the effect of the sanctions on the civilian population of Iraq, he said that by July 1999 there had been 1.5 million deaths among Iraqi civilians, most of them children, the sick and older persons. The United Nations Children's Fund (UNICEF) report for the current year stated that the mortality rate for children under one year of age had risen from 56 per 1,000 (1984-1989) to 121 per 1,000 (1994-1999). The Subcommission on the Promotion and Protection of Human Rights had noted with great concern that the Iraqi

people, particularly children, were suffering terribly, that there had been a serious deterioration in the people's standard of living and that malnutrition remained a major problem owing to the lack of financial resources, which had resulted in a serious health situation and had taken the lives of six thousand children under five.

31. It was generally known that the sanctions imposed in accordance with the Charter had been conceived as a means of protecting international peace and security; however, in the case of Iraq, the sanctions regime had become an end in itself. The use of political and diplomatic means of solving international problems, as called for under the Charter and international law, had been abandoned and a policy of aggression adopted in order to overthrow a system of government and subdue the Iraqi people through starvation in order to serve the special interests of some countries rather than those of the international community. It was therefore important to reaffirm the need for sanctions to conform to the provisions of international law, especially the Charter of the United Nations, and to the principles of international humanitarian law.

32. To that end, it would be necessary to reform the Security Council and its methods of work and to establish principles of democracy, transparency, and accountability. States which were not members of the Council should be consulted on such questions; member States should be given an opportunity to appeal resolutions before the International Court of Justice; the right of veto should be restricted; and the role of the General Assembly as the democratic body representative of the will of the international community should be reaffirmed.

33. The Russian Federation and Belarus had submitted a working paper requesting the International Court of Justice to give an advisory opinion on the implications of the use of armed force by States (A/AC.182/L.104/Rev.1, para. 3). The international community should endorse that proposal as a means of establishing the rule of law rather than the law of the jungle, which remained the policy followed by certain States.

34. **Mr. Biato** (Brazil) said that his Government had always held that sanctions must be an instrument of last resort, to be applied when all other means had been exhausted, and that they should be a force for peace and stability at the international level. On 29 January 1999, the Security Council had adopted a set of practical proposals to improve the work of the sanctions committees, including the monitoring and administration system (S/1999/92). Another source of concern was the need to improve assessment of humanitarian consequences. His Government supported multilateral efforts to address the needs of third States in coping with the economic hardship and social dislocation caused by the imposition of sanctions. In any case, sanctions must remain the exception rather than the rule. Recent events in Kosovo and East Timor had highlighted the urgent need to improve preventive diplomacy. One crucial factor in fostering the settlement of disputes would be the enhancement of the role of the International Court of Justice.

35. His Government did not agree with the proposal that the Trusteeship Council should be entrusted with new functions, such as environmental issues, which fell within the mandates of existing bodies. However, his delegation welcomed the proposals intended to streamline and rationalize the workings of the Special Committee as a means to the renewal of the United Nations.

36. **Mr. Kanu** (Sierra Leone) said that his delegation fully supported the main conclusions and recommendations formulated at the ad hoc expert group meeting on assistance to third States affected by the application of sanctions, an issue which his delegation viewed with concern.

37. Article 50 of the Charter stated that any State, whether a Member of the United Nations or not, which was harmed by sanctions had the right to consult the Security Council with regard to a solution of those problems. His delegation believed that the solution might lie in the provision of assistance to cushion the effects of sanctions, and he reiterated the position, adopted by many delegations, that the matter was one which the Security Council must address.

38. The maintenance of international peace and security was a matter that required thorough consideration, including a careful study of the humanitarian and social consequences of sanctions.

39. With respect to the strengthening of the United Nations and its reform, his delegation supported the draft resolution submitted by the Special Committee to the General Assembly at its current session. Chapter VIII of the Charter authorized regional arrangements or agencies to undertake peacekeeping operations, although it did not include provisions for a specific division of labour. Article 52 gave regional arrangements and agencies the power to deal with matters relating to the maintenance of international peace and security, provided that such arrangements or agencies and their activities were consistent with the Purposes and Principles of the United Nations. That issue had been well articulated during the most recent session of the Special Committee, but it was not mentioned in that Committee's report.

40. With regard to the pacific settlement of disputes, the International Court of Justice could not continue to discharge its mandate effectively unless it was given the necessary resources. He urged all delegations to consider seriously the proposal to establish a dispute prevention and early settlement mechanism and to consider the proposal of the United Kingdom, which complemented that of Sierra Leone. His delegation believed that the two proposals provided a good basis for bringing the matter to a fruitful conclusion.

41. Lastly, his delegation was concerned at the delay in reaching a final decision on the question of the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council*.

42. **Mr. Choe Myong Nam** (Democratic People's Republic of Korea) said that although methods for the proper application of sanctions had been one of the priority items on the agenda of the Special Committee for many years, no concrete solution had yet been reached. The frequency of the application of wide-ranging sanctions under Article 50 of the Charter and the resulting adverse effects on the target States and on third States had increased in recent years, underlining the necessity and urgency of further efforts to resolve the issue. The results of the meeting of the ad hoc expert group convened pursuant to General Assembly resolution 52/162 were encouraging elements in the search for ways to provide international assistance to third States affected by the application of sanctions.

43. The Security Council, which was empowered to impose sanctions under Article 41 of the Charter, should take responsibility for mitigating the collateral damage inflicted on third States. To that end, before applying sanctions, the Security Council should study carefully their potential negative effects on the targeted State as well as third States. The right of all States to consult the Security Council should be respected, with a view to alleviating economic loss due to application of sanctions under Chapter VII of the Charter. His delegation agreed with the proposal to establish a trust fund and a permanent consultative mechanism to enable third States to address socio-economic difficulties arising from the application of sanctions. The adoption of a legal instrument on basic conditions and criteria in that area would help to prevent abuse of sanctions, and the document entitled "Basic conditions and criteria for the introduction of sanctions and other coercive measures and their implementation" could serve as a basis for such an instrument.

44. A clear distinction should be made between sanctions imposed under the Charter and unilateral sanctions, which should be rejected. Sanctions should not serve as the primary and sole means of conflict resolution nor as a political means to infringe on the right of a people to choose freely their political and economic system. Sanctions under Chapter VII of the Charter should be applied as a last resort when all other alternatives had been exhausted, and the safety of the lives and property of the population should be guaranteed. In particular, the principle of respect for human rights and fundamental freedoms should be observed. The duration, scope and content of the sanctions must be set clearly, and once their aim was achieved, they should be lifted immediately. None of the Articles of the Charter envisioned an open-ended sanctions regime.

45. There was a compelling need for the Special Committee to rectify the errors committed in the past by the United Nations, within the framework of the reform of the Organization. In fact, on the eve of the new millennium, unjust situations characterized by abuse of the name of the United Nations continued to exist. One example was the fact that the United States military command in South Korea had been camouflaged as a "United Nations command" and that United States forces were abusing the name of the Organization. The United States had created the impression that the United Nations had a belligerent relationship with the Democratic People's Republic of Korea, and for the past half century it had pursued a political and military strategy on the Korean peninsula which had jeopardized the image and credibility of the United Nations. Ways to put an end to that situation should be worked out in the Special Committee.

46. **Mr. Krokhmal** (Ukraine) said he welcomed the increased attention paid by delegations to the question of improving the working methods of the Special Committee. The first step in that direction had been the holding of the Special Committee session in April, a practice which, in his view, should be continued in the future. Another step would be to set a time limit for submission of documents before the sessions of the Special Committee, for example, one month. Greater coordination with other United Nations bodies to avoid duplication would also help to streamline the Special Committee's activities. In that connection, his delegation reiterated its proposal that informal contacts with secretariats of other organs and the most active delegations should be supplemented by inviting the representatives of relevant bodies and Secretariat units to inform the Special Committee about their activities. He also proposed that consideration of issues which had been on the agenda of the Special Committee for some time should be deferred for two or three sessions so that delegations could reconsider their positions in the light of new developments that might occur during those years.

47. The Sixth Committee had been unable to reach a consensus on the proposal to reduce the duration of the Special Committee's sessions. That proposal should be examined with caution, at least until agreement was reached on the principles on which such a reduction would be based. Currently, his delegation was not in a position to support that proposal.

48. With regard to the working paper submitted by the Russian Federation entitled "basic conditions and criteria for the introduction of sanctions and other coercive measures and their implementation" his delegation hoped that he sponsoring delegation would prepare a revised draft for the second reading which took into account the views expressed by delegations during the first reading.

49. The working paper submitted by Belarus and the Russian Federation deserved further careful consideration in the Special Committee, since it raised important legal questions which had been the subject of heated debate in the United Nations. The provisions of the working paper required further streamlining. Most of the preambular paragraphs were taken from General Assembly resolutions adopted in the early 1970s, and it was not appropriate to take them out of context without making reference to other principles and provisions contained in those documents. The Special Committee, as an expert legal body, should concentrate on legal issues and avoid discussion of political matters which were beyond its mandate. In that regard, the request for an advisory opinion should be simplified to deal primarily with the formulation of the legal question contained in paragraph 3 of the revised draft, and the preamble should be reduced to one or two general paragraphs.

50. His delegation supported the proposal of Sierra Leone and the suggestions on prevention and settlement of disputes submitted by the United Kingdom. An updated assessment of the various mechanisms at the disposal of the Secretary-General would be useful for the formulation of recommendations by the Special Committee to the General Assembly.

51. With respect to practical means to strengthen the International Court of Justice, Ukraine supported the draft resolution submitted by Mexico and recommended by the Special Committee to the General Assembly for adoption at the current session.

52. Concerning the issue of implementation of the Charter provisions related to assistance to third States affected by the application of sanctions, his Government had already submitted its memorandum on the results of the work of the ad hoc expert group. While the report of the Secretary-General contained the views of international financial institutions and organizations of the United Nations system on the work of the ad hoc expert group, the views of a number of States as well as those of such important institutions as the World Bank and UNDP had not yet been received. Ukraine hoped that they would be available for the next session of the Special Committee and supported its recommendation that the Secretary-General should take into account the input received from States and international financial institutions, which would provide a basis for an agreement on the issue of practical implementation of Article 50 and other Charter provisions relating to assistance in the implementation of sanctions. The time had come to turn from discussion to formulation of guidelines for action.

53. Lastly, his delegation, together with those of Bulgaria and the Russian Federation, intended to submit a draft resolution which could be discussed within the framework of a working group of the Sixth Committee.

54. **Ms. Quezada** (Chile) said that her delegation fully supported the statement by the Rio Group and the views expressed by the representative of Mexico on behalf of that group.

55. With respect to the imposition of sanctions and their unintended effects on third States, sanctions were an effective means of giving effect to Security Council decisions aimed at maintaining international peace and security. Nonetheless, sanctions must be temporary, take humanitarian constraints into consideration and affect those responsible, not the innocent civilian population.

56. Her delegation supported the approach adopted by Mexico with respect to practical means of strengthening the International Court of Justice, taking into account the increase in its workload and the fact that its budget had remained unchanged for years. The measures the Court itself had adopted to streamline its work, which were mentioned in its report A/53/326, were a first step in that direction. Lastly, Chile considered that any change or proposal referring to the work of the Special Committee should be considered by that Committee itself.

57. **Mr. Tehov** (Bulgaria) said that Bulgaria, as a country associated with the European Union, endorsed the statement made by Finland on behalf of the Union.

58. Bulgaria was one of the Member States directly affected by the application of sanctions against Yugoslavia, Iraq and the Libyan Arab Jamahiriya. As a result, it had sustained enormous losses equivalent to its total foreign debt. Bulgaria therefore attached particular importance to the implementation of the Charter provisions concerning

assistance to third States affected by the application of sanctions, and it had consistently held that prompt and effective assistance should be provided to such States. That subject, which had been examined in detail in the Special Committee and the Sixth Committee, had led to the adoption by consensus of General Assembly resolutions 50/51, 51/208, 52/162 and 53/107. Yet the special economic problems facing third States affected by sanctions had still not been specifically and directly addressed. The recommendations and conclusions of the ad hoc expert group meeting convened pursuant to General Assembly resolution 52/162 constituted a good basis for the elaboration of a methodology for assessing the consequences actually incurred by third States as a result of preventive or enforcement measures and for exploring innovative and practical measures that could be taken by organizations both within and outside the United Nations system to assist third States. It was essential to reach a common interpretation of Articles 49 and 50 of the Charter, especially with respect to burden-sharing and the equitable distribution of costs. Since the Security Council acted on behalf of all Member States when it imposed sanctions, it was appropriate that all States should pay the costs.

59. Bulgaria supported the recommendation that an advance assessment of the potential impact of sanctions on the target country and third States should be carried out before a resolution was adopted under Chapter VII of the Charter. It was essential to ensure that affected third States participated in the preliminary impact assessment prior to the imposition of sanctions and that they were allowed, in accordance with Article 50 of the Charter, to consult the Security Council with regard to a solution of special economic problems arising from the carrying out of preventive or enforcement measures. The establishment of permanent mechanisms within the United Nations system would be very useful in that regard, as would the creation of mechanisms for monitoring the effects of sanctions once they were imposed.

60. Careful consideration should be given to the suggestion made by the ad hoc expert group concerning the application of funding procedures similar to those adopted for peacekeeping operations, with the aim of mitigating the adverse effects of sanctions. He supported the recommendation to appoint a special representative of the Secretary-General to assess the effects in the most serious cases, as well as the idea of creating a standing Security Council sanctions committee to assess and monitor the political, social, economic and humanitarian impact of sanctions on a permanent basis.

61. His delegation shared the view that international financial and trade institutions could play a key role both in assessing the consequences of sanctions for third States and in providing assistance, and considered that careful consideration should be given to the creation of a special contingency fund which would become active in the event that sanctions were applied.

62. Lastly, his delegation considered it important to maintain close coordination between institutions providing assistance to third States affected by sanctions. It also agreed that financial assistance should be supplemented by non-financial measures, such as special trade preferences, tariff adjustments, quota allocations, commodity purchase agreements and greater market access for goods from affected third States.

63. **Mr. Al-Akwaa** (Yemen) said he welcomed the report of the Secretary-General (A/54/383). As a country seriously affected by the sanctions regime imposed on Iraq, Yemen requested that those sanctions be lifted, and also urged Iraq to cooperate in resolving pending issues with Kuwait, in accordance with the relevant resolutions. Similarly, his delegation urged that the embargo against the Libyan Arab Jamahiriya be lifted, as that country had already handed over the two suspects in the Lockerbie affair.

64. His delegation shared the opinion of the majority of Member States with regard to sanctions, the main points of which were the following: they should only be used as a last resort; prior to the imposition of sanctions, consultations should be held with third States which might be adversely affected; sanctions should have a time limit and precise objectives, and should be subject to periodic review once imposed; and they must make it possible to meet the basic needs of the population of the target State and of affected third States.

65. **Ms. Efrat-Smilg** (Israel) said that strict adherence to the Charter was the major guarantee for a stronger and more effective Organization. Israel was the only State Member of the United Nations that was not a member of any regional group, which had prevented it from participating fully in the work of the Organization. That unjust exclusion should have been corrected long before in order to ensure compliance with the fundamental principle of the sovereign equality of all Member States as enshrined in Article 2, paragraph 1, of the Charter.

66. With regard to the proposal by the Russian Federation on peacekeeping missions and mechanisms for the prevention and settlement of crises and conflicts, discussed in paragraphs 70-82 of the Special Committee's report (A/54/33), she highlighted the importance of allowing each

specific case to be structured according to its needs and characteristics. Any framework decided upon must be flexible and non-binding, since experience had shown that no two conflicts were identical.

67. The question of the peaceful settlement of disputes was of particular importance to Israel. In that regard, the fundamental principle was and should continue to be that the parties should be free to choose any peaceful means for settling their differences. Her delegation welcomed the informal paper submitted by the delegation of the United Kingdom as a complement to the original proposal by Sierra Leone (A/54/33, para. 107). In that respect she pointed out that the solution to a dispute did not necessarily have to be found in submitting it to a third party or an external body; in some cases, the best way to achieve a peaceful settlement was through bilateral, face-to-face negotiations.

68. Concerning the Trusteeship Council, she said that it had played a very important role in the past, but entrusting it with new responsibilities, such as trustee and coordinator for the common heritage of mankind, would not be compatible with the provisions of the Charter.

69. Lastly, she noted with appreciation the spirit of cooperation shown by the delegation of Guatemala in withdrawing its proposal concerning the amendment of the Statute of the International Court of Justice, about which her delegation had doubts from both a practical and a legal point of view.

70. **Mr. Uykur** (Turkey) said that his country, which had suffered the adverse effects of sanctions applied against other States, hoped that some functional mechanism would be established and entrusted with responsibility for the issue of assistance to third States affected by the application of sanctions. The report of the ad hoc expert group summarized in the report of the Secretary-General (A/53/312) could serve as a starting point for obtaining concrete results. An essential factor in evaluating the effects of sanctions on third States was to take into account the degree of economic interaction between the sanctioned State and third States, as well as other factors, such as geographical ones. He also hoped that certain existing mechanisms for the indemnification of losses and damages caused by the sanctioned State, such as the United Nations Compensation Commission, would be revitalized and made functional.

71. Some other measures to stimulate work with regard to the issue of third States affected by sanctions might be: the granting of trade exemptions or concessions to certain neighbouring countries following the imposition of sanctions by the United Nations, which had proved to be an effective and practical method for reducing the impact on third States that had highly developed commercial relations with the sanctioned State; the granting to third States of an exception that allowed them to continue trade in specific goods and services with the sanctioned State; a request made directly to the affected States to provide an analysis of the effects of sanctions on their national economy and of how to lessen those effects, a mechanism provided for in General Assembly resolution 53/107 of 8 December 1998, which would facilitate the task of fact-finding or assessment missions and of the Secretariat in evaluating those effects in the context of their reports to the Security Council. Other measures could be to apply sanctions less strictly if it was felt that the third State urgently required certain products as a result of a natural disaster or an unforseen event of similar effect and the only solution was to obtain the necessary material from the sanctioned State; or to allow investment, construction, trade and other economic activities between the sanctioned State and third States to continue for humanitarian reasons, for example, the delivery of medical equipment or the reconstruction of medical facilities, in which case contractors from the most affected States could be engaged. In that regard, he was of the opinion that Article 50 of the Charter should be interpreted to mean that the Security Council was responsible for alleviating the suffering of third States affected by the application of sanctions. Otherwise, that article would be meaningless and ineffectual.

72. He welcomed the proposals by Sierra Leone and the United Kingdom concerning the settlement of disputes. He believed that the parties must agree before a dispute was submitted to any body to resolve that dispute. He also thanked the delegation of the Russian Federation for its suggestions concerning peacekeeping missions and mechanisms for the prevention and settlement of crises and conflicts and said that the issue merited further study.

73. Lastly, the Special Committee should study issues of common interest. Members should avoid introducing issues for political reasons, which only led to unnecessary debate and undermined the valuable work of the Committee. In order to make the Committee more efficient, it was important that meetings should begin on time and that better use should be made of conference services. Rather than shorter meetings, ways should be found to make it more effective. The study of issues of common interest was a difficult task and the Special Committee was the appropriate forum for such work.

74. **Mr. Niehaus** (Costa Rica), referring to the document submitted by the Russian Federation and Belarus suggesting that the Committee might request an advisory opinion from the International Court of Justice on the juridical

consequences of the use of force by States, he said that force could be used in international relations only in exercise of the right of self-defence or if expressly authorized by the Security Council. Nevertheless, given that the International Court of Justice already had a case involving that very issue before it, for the time being it would be inappropriate to request an advisory opinion on that subject.

75. As to the proposals to enhance the functioning of the Court, he welcomed the draft resolution contained in paragraph 122 of the report and noted that the practical difficulties the Court encountered in its work were due to budgetary constraints. Although the Advisory Committee on Administrative and Budgetary Questions had approved a small increase in the budget, the resources were insufficient for the Court to meet all its responsibilities in the light of the growing number of cases. He also believed that in some areas the Court's activities could be improved, and did not share the view of those who sought to shield the Court from any suggestions or criticism by claiming a misconstrued absolute independence. The Court was a mechanism in the service of States and therefore should meet their needs in an active and effective manner. Among other improvements, it would be useful for judges to limit the length of their dissenting opinions to no more than 5 or 10 pages, to streamline procedures, and to hold closed sessions in one language, thus avoiding the need for interpretation and translation of documents, and to enhance judicial activities by selecting judges who were able to understand both official languages and by establishing an age limit.

76. Sanctions were a legitimate means of defence for the international community, and any sanctions regime should be carefully designed to accomplish its main objective of modifying the unlawful practices of a particular government. That was the sole valid objective of sanctions. There should always be a time limit and under no circumstances could sanctions be used as a means of punishing the innocent civilian population. Any sanctions regime must therefore be accompanied by an active and permanent dialogue among the parties. That was the only way to bring the affected State back into the international community.

77. His delegation was concerned that the imposition of sanctions could sometimes give rise to a violation of the basic rights of the population. It was to be feared that some regimes, in particular those which imposed sanctions on specific persons, would not meet the minimum requirements of due process. Also, he saw with concern the casuistic and politicized work of the sanctions committees, which were carrying out the quasi-judicial tasks of identifying violations of various regimes. A coherent jurisprudence should therefore be developed and the right of defence of all States accused of violating sanctions should be respected. All the Special Committee's decisions should be made public and submitted to the review of the international community.

78. The working methods of the Special Committee would have to be revitalized to obtain practical results. His delegation was not in favour of shortening its sessions.

79. **Mr. Edmond** (Haiti) said that his country was concerned at the increase in the number of cases of sanctions being imposed, and emphasised the need for a careful review of the question of the implementation of provisions of the Charter related to assistance to third States affected by the application of sanctions. The recommendations of the ad hoc expert group should be analysed by the Special Committee, which should give greater attention to the issue of sanctions without a time limit. Any sanctions imposed on a State should have a time limit, as their main objective was to force that State to respect the decisions of the international community.

80. Regarding the use of force, he said it was important to consider new approaches taking due account of the Charter's provisions. In that context, his delegation believed that the International Court of Justice should help to seek solutions to problems relating to the right of States to use force in cases not foreseen by the Charter.

81. Peacekeeping operations were continuing their dynamic activity in response to the continuous disturbances in relations between States and armed conflicts at borders. In recent years those activities had proved more effective when the parties had not only been able to come to a negotiated agreement but had also demonstrated the political will to achieve fixed objectives.

82. His delegation supported the proposal to set up a special fund for voluntary contributions as well as the establishment of a programme for young professionals wishing to gain broader experience of the Charter and the practice of the Security Council.

83. In connection with Security Council reform, his delegation continued to support debate on the following: (a) the election as permanent members of representatives of Latin America, Africa and Asia; (b) the abolition of the veto, which was contrary to the institution of a democratic regime in international relations; and (c) an increase in the number of Council members. With regard to the decision of the Economic and Social Council in respect of Haiti, which was inaugurating a new era in the history of the Council, he said that for the first time Haiti would be participating in cooperation between the Security Council and the Economic and Social Council, in accordance with Article 65 of the

Charter. The process of implementing that decision would serve as a guide for the Special Committee for other similar issues.

84. **Mr. Arbogast** (United States of America), commenting on the matter of the imposition of economic enforcement measures, said he wished to clarify what the United Nations Charter did provide, and what it did not provide. The Charter did provide in Article 39, that enforcement measures could be taken only after the Security Council had determined the existence of a threat to the peace, a breach of the peace, or an act of aggression. That determination was a very serious and weighty one that was obviously not taken lightly. The Charter did not provide that all peaceful means of settlement needed to be exhausted before the Council could impose enforcement measures, whether economic measures under article 41, or more forceful measures under Article 42. Such a limitation was not included in the Charter because its framers had understood that the Council had to have the flexibility to act in connection with the situation referred to in Article 39. That included, of course, the need to move rapidly in the case of an invasion, where failure to do so could lead to a further deterioration of the situation. By the same token, the imposition of economic enforcement measures did not preclude recourse to appropriate peaceful means of settlement, which was what normally happened in the real world. It should be recalled that the imposition of such measures under Article 41 was far less onerous than the action that the Security Council could take under Article 42 to restore international peace and security through the engagement of air, sea or land forces.

85. Japan had reminded delegations that the Charter was clear as to the legal situation with respect to a Member State's obligations in relation to the effects on third countries of economic enforcement measures. Article 25 of the Charter stated that Members of the United Nations agreed to accept and carry out the decisions of the Security Council. Article 50 provided that any State confronted with special economic problems arising from the carrying out of those measures had the right to consult the Security Council. There was no legal link between the two articles, or any other element of conditionality. That was the way it had to be if economic measures were to be the critical enforcement tool for the United Nations contemplated by the Charter, and one that, if applied effectively, might in some cases avoid the need to resort to more forceful actions. Efforts must be pursued to make sanctions as "smart" as possible and to address hardship situations with respect to both target States and third countries. But the power and effectiveness of economic measures as a crucial tool to address an act of aggression, or a threat to or breach of the peace must not be diluted, by the creation of unwise exceptions or requirements for prior assessments that caused damaging delays or placed undue emphasis on third-country economic effects. Having said that, his delegation recognized that there were issues involved in the imposition of sanctions that needed to be addressed and believed that the experience of most organizations was that the best way to do so was through practical, realistic approaches. One of the measures adopted in relation to Article 50 of the Charter was the convening of an ad hoc expert group meeting to develop a methodology for assessing the consequences of sanctions for third States. The report of the expert group had served to further raise the consciousness of the wide range of organizations and institutions that were willing to cooperate in and coordinate efforts to enhance the effectiveness of responses to such situations. Also, as noted by the European Community, expert seminars on the topic of sanctions, hosted by Germany and other countries, provided opportunities to address the third-State problem in the context of devising smarter sanctions aimed at a target State.

86. He welcomed the remarks of Japan and other delegations regarding the rationalization of the Special Committee's work and the reform of its working methods. He shared the view that open-ended informal consultations should be held on the issue and that the Special Committee could satisfactorily accomplish its work in five days.

87. It had become clear in the meetings of the Special Committee that the proposals to formulate omnibus principles, conditions and criteria with regard to the imposition of sanctions and the creation of peacekeeping operations had become academic exercises which stood no chance of bearing fruit, largely because the proposals were of limited use, lacked a practical focus and duplicated work done in other United Nations forums. His delegation therefore believed that the proposals before the Special Committee should be subject to new review procedures which would serve to determine what the Committee's proper business should be.

88. It would not be useful or appropriate for the Special Committee to recommend requesting an advisory opinion from the International Court of Justice with regard to generic legal issues involving the use of force by States. His delegation also considered that the time had come to remove the Trusteeship Council from the United Nations books. That involved a technical revision of the Charter of the United Nations, a task which needed to be done and which the Special Committee could usefully address, even if certain global tasks should be undertaken by some other entity.

89. He was hopeful that the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council* would continue to be updated through a more creative use of existing resources. Lastly, he expressed the view that the initiative by Sierra Leone on dispute avoidance and resolution, as reflected in the United Kingdom's proposal, could be useful.

90. **Ms. Steains** (Australia) shared the view that Member States should look seriously at ways of minimizing the adverse impact of sanctions on specially affected States. Sanctions were imposed by the international community in the interests of maintaining international peace and security for the benefit of all and it was therefore incumbent on Member States to find ways of mitigating the burden imposed on individual States. In that context, a greater use of targeted sanctions, aimed at specific individuals and entities in the targeted country, could help to meet the twin objectives of improving the effectiveness of sanctions and minimizing their humanitarian and economic impact.

91. Her delegation welcomed the Secretary-General's report relating to the development of a methodology for assessing the consequences incurred by third States and supported the recommendation that the Secretary-General should assess its feasibility and present a report on the issue.

92. Her delegation also supported the Special Committee's recommendation that the Secretary-General should be invited to provide relevant information, particularly on the work of the sanctions committees, in order to facilitate the flow of important information and ensure consistency in their activities. Such information would make it possible to develop standards and rules to minimize the impact of sanctions on vulnerable groups within the target State, as well as minimizing their economic impact on third States.

93. Her delegation shared the concerns expressed by many others in respect of the increasing workload of the International Court of Justice. Although the Court had been able to respond despite its insufficient resources, it should not be forced to implement measures that might have an adverse effect on its ability to discharge its mandate. Her delegation supported the draft resolution on practical ways and means of strengthening the Court and was pleased that the Advisory Committee on Administrative and Budgetary Questions had given favourable consideration to the Court's budgetary requests.

94. Her delegation took note of the Secretary-General's report on the updating of the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council*. She commended the Secretariat on its efforts to expedite the preparation of the documents, which were of immense value to the United Nations, to Member States and to other international bodies.

95. Her delegation strongly supported the view that the working methods of the Special Committee should be further streamlined. Clear priorities with regard to new or revised proposals should be established and it would be useful to reconsider the idea of a cut-off mechanism, both to ensure that items before the Committee did not drag on over many years and to avoid duplicating the work of other bodies.

96. Lastly, she regretted that the Special Committee did not utilize efficiently the time allocated to it. She therefore supported the view that the length of sessions should be addressed annually. Accordingly, in view of the heavy schedule of important legal meetings in 2000, the next session should not exceed five working days.

Tribute to the memory of H.E. Mr. Julius Nyerere, First President of the United Republic of Tanzania

97. **Mr. Kanu** (Sierra Leone) expressed his condolences to the Government of the United Republic of Tanzania on the recent death of Julius Nyerere, founding President of the United Republic of Tanzania.

98. **Mr. Manongi** (United Republic of Tanzania) thanked the representative of Sierra Leone for his condolences.

The meeting rose at 1.10 p.m.